

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MACEY E. TURLEY, JR.,

Plaintiff,

v.

LOPEZ, *et al.*,

Defendants.

Case No. 1:23-cv-00100-BAM (PC)

**ORDER GRANTING MOTION TO AMEND
COMPLAINT**

(ECF No. 11)

THIRTY (30) DAY DEADLINE

Plaintiff Macey E. Turley, Jr. ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action was initiated on October 31, 2022 in the United States District Court for the Southern District of California. (ECF No. 1.) The action was transferred to the Eastern District of California on January 23, 2023. (ECF No. 4.) The complaint has not yet been screened.

On February 15, 2023, Plaintiff filed a "Motion to Dismiss Defendant Coyle," indicating that he wishes to drop charges against Defendant Coyle. (ECF No. 11.) Plaintiff also filed a statement on March 3, 2023, which appears to be a restatement of his claims from the original complaint, and continues to name Coyle as a defendant. (ECF No. 15.) Taking all the filings together, the Court construes Plaintiff's motion and statement as a motion to amend the complaint.

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1 Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's
2 pleading once as a matter of course at any time before a responsive pleading is served.
3 Otherwise, a party may amend only by leave of the court or by written consent of the adverse
4 party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). "Rule 15(a)
5 is very liberal and leave to amend shall be freely given when justice so requires."
6 *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006) (citation and
7 quotation omitted). However, courts "need not grant leave to amend where the amendment:
8 (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in
9 litigation; or (4) is futile." *Id.*

10 In considering the relevant factors, the Court finds no evidence of prejudice, bad faith,
11 undue delay in litigation, or futility. Plaintiff's complaint has not yet been screened and no
12 defendants have been served or have appeared in this action. Accordingly, Plaintiff's motion to
13 amend shall be granted.

14 Plaintiff's first amended complaint should be brief, Fed. R. Civ. P. 8(a), but it must state
15 what each named defendant did that led to the deprivation of Plaintiff's constitutional rights,
16 *Iqbal*, 556 U.S. at 678-79. Although accepted as true, the "[f]actual allegations must be
17 [sufficient] to raise a right to relief above the speculative level" *Twombly*, 550 U.S. at 555
18 (citations omitted).

19 Additionally, Plaintiff may not change the nature of this suit by adding new, unrelated
20 claims in his first amended complaint. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no
21 "buckshot" complaints).

22 Finally, Plaintiff is advised that an amended complaint supersedes the original complaint.
23 *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012). Therefore, Plaintiff's amended
24 complaint must be "complete in itself without reference to the prior or superseded pleading."
25 Local Rule 220. This includes any exhibits or attachments Plaintiff wishes to incorporate by
26 reference. **Plaintiff is advised that he should submit a single complaint that includes all the**
27 **claims and defendants he wishes to proceed on, and he may not submit future versions of**
28 **his claims without permission from the Court.**

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion to dismiss Defendant Coyle, which the Court construes as a motion to amend the complaint, (ECF No. 11), is GRANTED;
2. The Clerk's Office shall send Plaintiff a complaint form;
3. Plaintiff's first amended complaint, **not to exceed twenty-five (25) pages**, is due within **thirty (30) days** from the date of service of this order; and
4. **If Plaintiff fails to file a first amended complaint in compliance with this order, this action will be dismissed for failure to prosecute and failure to obey a court order.**

IT IS SO ORDERED.

Dated: **March 9, 2023**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE